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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,007	10/17/2001	Frederick L. Mitschele	660106-401	7841
500	7590	06/30/2004	EXAMINER	
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC			MISKA, VIT W	
701 FIFTH AVE			ART UNIT	PAPER NUMBER
SUITE 6300			2841	
SEATTLE, WA 98104-7092				

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/857,007

Applicant(s)

MITSCHELE, FREDERICK L.

Examiner

Vit W. Miska

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13, 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitschele et al in view of Sterzer. The Mitschele et al reference is noted by applicant in the specification and includes the claimed elements except that the identification means lacks an encoded vehicle identification code, the vehicle identity being captured instead by camera 28. However, the patentee suggests at col.3, line 44 that the development of a "smart plate may permit electronic identification of the vehicle". One skilled in the art having this suggestion would thus attempt to provide such electronic identification means. The Sterzer reference discloses such a means, with encoding means 14 for generating the vehicle identification code and transmitting the same to remote station 110. One skilled in the art would thus provide the electronic vehicle identification codes as

an alternative to the video signals in the Mitschele et al device as suggested therein, by using the known vehicle identification device of Sterzer.

2. Applicant's argument that Sterzer would not be applicable in Mitschele et al because existing technology (at the time of Mitschele et al) would not be suitable in parking meters is not persuasive, as Mitschele et al clearly recognizes that a "smart plate" may be used to transmit vehicle id data instead of a camera (col. 3, lines 41-44). Whether Mitschele et al was aware of any such smart plates or not is not germane to the issue of obviousness, rather, whether one of ordinary skill in the art reading the disclosure of Mitschele et al would be led to follow the suggestion therein at the time the invention was made to use existing smart plate technology to replace the camera identification system. Having both Mitschele et al and Sterzer, one skilled in the art would clearly have such motivation pursuant to the suggestion in Mitschele et al.

3. Applicant's argument at page 7 that the interrogator in Sterzer is unsuitable for use in Mitschele is contradicted by statements in applicant's specification that in fact the Sterzer interrogator is one of the devices contemplated (page 8, line 8 of the specification) as a replacement of the Mitschele et al camera system. The range of 12 feet of the interrogator in Sterzer is of the approximate length of a parking space (corresponding to the length of a car), as claimed by applicant.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mitschele et al and Sterzer, as applied to claim 1, above, in further view of the PCT published application to Mongiardino (99/30290). Mitschele et al indicates that vehicle detector 22 may be “ultrasonic, infrared or micro-powered radar” (col. 3, lines 64-65). The PCT reference teaches the use of an “in pavement” magnetic field sensor 2 for detecting the presence of a vehicle in a parking space. One skilled in the art having both references would thus have a suggestion of using a magnetic field sensor as the vehicle detector in the Mitschele et al as done in Mongiardino as one of conventional sensors suitable for such use.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The combination now claimed of an interrogation station and a reply signal encoded with the vehicle identification code upon the existence of a parking violation of claim 1 and a digital camera to take an image of a vehicle license plate upon existence of a parking violation (claim 14) has not been previously described in the disclosure. The description at page 8, lines 1-24 of the specification refers to a digital camera being used for vehicle detection; however, the combination now claimed in claim 13 is not described therein.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2841

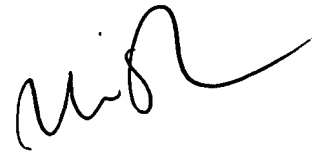
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vit W. Miska whose telephone number is 571-272-2108. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2841

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vit Miska
Primary Examiner

VM
6/23/2004